

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SUBJECT: Site-Specific Delegation of Authority to the Director of the Waste and Chemical Management Division for the issuance of a RCRA Unilateral Order to Correction Action at the General Chemicals Corporation Facility

July 19, 2000

FROM: William C. Early
Regional Counsel (3RC00)

TO: Bradley M. Campbell
Regional Administrator (3RA00)

RECOMMENDATION

In order to separate the role of the petitioner from the role of the ultimate Agency decision-maker, I recommend that in the instant case, the authority to issue the order be further delegated to the Director of the Waste and Chemicals Management Division.

BACKGROUND

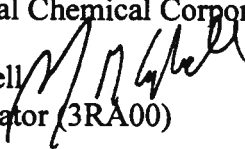
The Region proposes to issue a unilateral order to General Chemical Corporation requiring it to perform corrective action at its Delaware/Pennsylvania facility pursuant to Section 3008(h) of RCRA. Upon issuance of the order, General Chemical may request a hearing in accordance with the procedures set forth in 40 C.F.R. Section 24.02(b), which states, "The initial administrative order shall be executed by an authorized official of EPA (petitioner), other than the Regional Administrator or the Assistant Administrator of the Office of Solid Waste and Emergency Response." Part 24 further explains the procedure wherein the Presiding Officer holds a hearing and makes a recommendation to the Regional Administrator, the Regional Administrator either signs or modifies the recommendation of the Presiding Officer and ultimately, the Regional Administrator issues the final decision on the matter for the Agency.

Consistent with the authority set forth in the current EPA Delegation 8-32, such unilateral orders must be prepared for the signature of the Regional Administrator. Delegation 8-32 delegates the authority to issue orders and sign consent decrees for corrective action pursuant to Subtitle C, Section 3008(h) of RCRA to the Regional Administrators and the Assistant Administrator for Enforcement and Compliance Assurance.

Prior to the current delegation, this authority had been delegated to the Director of the Hazardous Waste Management Division and the Associate Director of the Office of RCRA Programs. This delegation was not modified to reflect the Regional reorganization which took place in the summer of 1998. However, the Strategic Planning and Management Branch is

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Issuance of a RCRA Unilateral Order for Corrective
Action at the General Chemical Corporation Facility

FROM: Bradley M. Campbell 
Regional Administrator (3RA00)

TO: James J. Burke, Director
Waste and Chemicals Management Division (3WC00)

JUL 20 2000

You are hereby delegated authority to issue the unilateral order for corrective action in the above-referenced case. This is a redelegation of authority set forth in Delegation 8-32.

This one-time delegation of authority expires after the issuance of the unilateral order. This delegation is limited to the purpose above and may not be redelegated further.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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1650 Arch Street
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SEP 07 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Billie S. Flaherty, Esquire
Vice President of Environmental Health & Safety
General Chemical Corporation
90 East Halsey Road
Parsippany, NJ 07054

Re: 3008(h) Initial Administrative Order
Docket No. RCRA-3-089CA

Dear Ms. Flaherty:

Enclosed is a corrective action Initial Administrative Order issued pursuant to Section 3008(h) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6928, requiring, *inter alia*, that General Chemical Corporation conduct environmental remedial investigative work and if necessary, perform interim measures at the General Chemical, Claymont, Delaware Facility.

As set forth in Section 3008(b) of RCRA, this Initial Administrative Order shall become final and effective no later than thirty (30) calendar days after service unless Respondent files with the Regional Hearing Clerk a response and requests a public hearing in writing within thirty (30) calendar days after service of this Order as provided by 40 C.F.R. Sections 24.02 and 24.05.

If you have questions regarding the technical aspects of this Order, please contact Russell Fish of my staff at (215)814-3226. Legal questions should be addressed to Susan Hodges in the Office of Regional Counsel at (215)814-2643.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Greaves", is written over the typed name.

Robert E. Greaves
General Operations Branch

Enclosure

INITIAL ADMINISTRATIVE ORDER

ADMINISTRATIVE ORDER

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ATTACHMENTS

- A. Scope of Work for Interim Measures
- B. Scope of Work for a RCRA Facility Investigation
- C. Scope of Work for a Corrective Measures Study
- D. Scope of Work for a Health and Safety Plan
- E. Location Map of Facility
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UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

REGION III

IN THE MATTER OF:

General Chemical Corporation
6300 Philadelphia Pike
Claymont, Delaware 19703

RESPONDENT

EPA I.D. Nos. DED154576698 and
PAD990823742

)
)
) INITIAL ADMINISTRATIVE ORDER
) U.S. EPA Docket Number:
) RCRA-3-089CA
)
)

)
)
) Proceeding under Section
) 3008(h) of the Resource
) Conservation and Recovery
) Act, as amended, 42 U.S.C.
) Section 6928(h).

ADMINISTRATIVE ORDER

This Initial Administrative Order ("Order") is issued to General Chemical Corporation ("Respondent" or "General Chemical") the owner and operator of a facility located at 6300 Philadelphia Pike in Claymont, Delaware 19703, hereinafter referred to as the "Facility", and as defined further in Section IV.B below.

I. JURISDICTION

This Order is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency by Section 3008(h) of the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. Section 6928(h). The authority vested in the Administrator has been delegated to the Regional Administrators by EPA Delegation Nos. 8-31 and 8-32 dated May 11, 1994. For the purpose of the issuance of this Order, the Regional Administrator for Region III has further delegated the authority in Delegation 8-32 to the Director, Waste and Chemicals Management Division.

On June 22, 1984, EPA granted the State of Delaware (the "State") authorization to operate a state hazardous waste program in lieu of the federal program, pursuant to Section 3006(b) of RCRA, 42 U.S.C. Section 6926(b). The State, however, does not have authority to enforce Section 3008(h) of RCRA. The State of Delaware has been given notice of the issuance of this Order.

On January 30, 1986, EPA granted the Commonwealth of Pennsylvania (the "Commonwealth") authorization to operate a state hazardous waste program in lieu of the federal program, pursuant to Section 3006(b) of RCRA, 42 U.S.C. Section 6926(b). The Commonwealth, however, does not have authority to enforce Section 3008(h) of RCRA. The Commonwealth of Pennsylvania has been given notice of the issuance of this Order.

II. PARTIES BOUND

A. This Order shall apply to and be binding upon EPA, Respondent and its agents, successors and assigns.

B. No change in ownership of any property covered by this Order, or in corporate or partnership status of Respondent, shall in any way alter, diminish, or otherwise affect Respondent's obligations and responsibilities under this Order.

C. Respondent shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants retained to conduct and/or monitor any portion of the work performed pursuant to this Order and shall do so within seven (7) calendar days of the effective date of this Order or date of such retention, whichever is later. All contracts, agreements or other arrangements with such persons shall require such persons to conduct and/or monitor the work in accordance with the requirements of this Order. Notwithstanding the terms of any such contract, agreement or arrangement, Respondent is responsible for complying with this Order and for ensuring that all such persons perform such work in accordance with this Order.

D. In the event of any change in ownership or operational control of the Facility and/or in the event of any change in majority ownership or control of the Respondent, Respondent shall notify EPA in writing of the nature of any such change no later than fifteen (15) calendar days after the effective date of such change. In addition, Respondent shall provide a copy of this Order to any successor to the Respondent and/or to the Facility at least fifteen (15) calendar days prior to the effective date of such change.

III. STATEMENT OF PURPOSE

The purpose of this Order is to require Respondent, consistent with Section 3008(h) of RCRA, to: (1) control any groundwater contamination at or from the Facility; (2) control the human and ecological exposure to hazardous waste and/or hazardous constituents from releases at or from the Facility; (3) perform (if appropriate) Interim Measures ("IM") at the Facility to prevent or mitigate threats to human health or the environment; (4) perform a RCRA Facility Investigation ("RFI") to determine fully the nature and extent of any release of hazardous wastes and/or hazardous constituents at or from the Facility; (5) perform a Corrective Measures Study ("CMS") as deemed appropriate by EPA to identify and evaluate alternatives for corrective action necessary to remediate contaminated media to levels protective of human health and the environment and (6) prevent or mitigate migration or releases of hazardous wastes and/or hazardous constituents at or from the Facility.

IV. FINDINGS OF FACT

- A. General Chemical is a corporation doing business in the State of Delaware and the Commonwealth of Pennsylvania and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. §6903(15).
- B. General Chemical owns and operates a chemical manufacturing corporation located at 6300 Philadelphia Pike in Claymont, Delaware 19703 ("the Facility"). The Facility, which consists of approximately 100 acres, originates from two formerly separate plants known as the Baker and Adamson Works in Marcus Hook, Pennsylvania ("North Plant"), and the Delaware Works in Claymont, Delaware ("South Plant"). Specifically, the entire South Plant is located in Delaware, and approximately two-thirds of the North Plant is located in Pennsylvania and one-third in Delaware. The two plants were previously owned by Allied Chemical Corporation, which became AlliedSignal Inc., and is now known as Honeywell International, Inc. Allied-Signal transferred portions of the two plants, identified as Delaware Valley Works ("DVW") to General Chemical on May 21, 1986 (at that time, General Chemical's name was One Newco, Inc. which was changed to General Chemical Corporation in June, 1986). A map of the Facility is incorporated herein as Attachment E.
- C. On July 28, 1980, Allied Chemical Corporation submitted to EPA a Notification of Hazardous Waste Activity ("Notification") for its operations which included the Facility, pursuant to Section 3010 of RCRA, 42 U.S.C. §6930. In the Notification, Allied Chemical Corporation ("Allied") identified itself as being a generator of hazardous wastes and an owner/operator of a hazardous waste treatment,

storage and/or disposal facility. EPA assigned Allied the EPA Identification Number PAD990823742.

- D. On November 11, 1980, Allied Chemical Corporation submitted a RCRA Part A Hazardous Waste Permit Application ("Part A") to EPA. In the Part A permit application, Allied Chemical Corporation indicated that it handled the following hazardous wastes:
- Hazardous wastes exhibiting the characteristics of ignitability (D001), corrosivity (D002), reactivity (D003), and toxicity (D007 and D008) as identified at 40 C.F.R §§ 261.21, 261.22, 261.23 and 261.24, respectively;
 - Hazardous wastes from non-specific sources identified under 40 C.F.R. §261.31 (F001, F002, F003 and F005);
 - Commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products identified under 40 C.F.R. §261.33(e) (P022); and
 - Commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products identified under 40 C.F.R. §261.33(f) (U210, U080, U228, U226, U239, U002, U117, U057, U031, U154, U220, U159, U161, U196, U056, U188, U213, U003 and U004,).
- E. On February 10, 1981, Allied Chemical Corporation submitted to the State of Delaware a Notification of Hazardous Waste Activity ("Notification") for its operations, which included the Delaware portions of the Facility. In the Notification, Allied Chemical Corporation identified itself as being a generator of hazardous wastes and an owner/operator of a hazardous waste treatment, storage and/or disposal facility. Within the submitted Notification, Allied Chemical Corporation indicated it generated, treated, stored and disposed of the following:
- Hazardous waste exhibiting the characteristics of ignitability (D001), corrosivity (D002),
 - Hazardous wastes from non-specific sources identified under 40 C.F.R. §261.31 (F001, F002, F003 and F005), and
 - Commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products identified under 40 CFR §261.33(e) and (f) (U210, U080, U228, U226, U239, U002, U117, U057, U031, U154, U220, U159, U161, P022, U196, U056, U188, U213, U003, U004, P012, P018, P075, P087, P095, P098, P106, P108, U012, U019, U023, U037, U052, U060, U061, U068,

U077, U083, U108, U112, U122, U123, U127, U128, U132, U135, U140, U142, U151, U044, U169, U201, U202, U209, U211, U218, U219 and U231).

- F. By letter to Allied dated March 11, 1982, EPA acknowledged that Allied Chemical Corporation qualified for interim status as follows: "This is to acknowledge that the Environmental Protection Agency has completed processing the information submitted in your Part A Hazardous Waste Permit Application. It is the Agency's opinion, based on the assumption that the information submitted is complete and accurate, you as an owner or operator of a hazardous waste management facility have met the requirements of Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) for interim status."
- G. On August 15, 1983, Allied Chemical Corporation submitted a RCRA Part B Permit Application for a hazardous waste container storage facility located at the North Plant to the Pennsylvania Department of Environmental Resources ("PADER"), currently known as the Pennsylvania Department of Environmental Protection ("PADEP").
- H. In a letter dated September 5, 1985 Allied Chemical Corporation notified EPA that it had withdrawn its Part B Permit Application for container storage as of August 26, 1985 since it would henceforth accumulate hazardous waste at the Pennsylvania portion of the North Plant for less than ninety days. In December of 1985 PADER returned the RCRA Part B application to Allied Chemical Corporation.
- I. On June 20, 1986, General Chemical Corporation submitted to the U.S. EPA, Region III a letter identifying the Facility's Solid Waste Management Units ("SWMUs")
- J. On November 17, 1986, General Chemical Corporation submitted a revised Notification of Hazardous Waste Activity ("Notification") which stated that General Chemical Corporation was the owner of the Facility.
- K. Effective December 1, 1987, control of several business operations located on Allied-Signal property, but previously under General Chemical Corporation's control, were transferred to Allied-Signal Corporation. As a result of the December 1, 1987 transfer Allied-Signal submitted a Notification of Hazardous Waste Activity ("Notification"), pursuant to Section 3010 of RCRA, 42 U.S.C. §6930, to EPA so that a generator Identification Number specific to Allied-Signal's facilities could be issued. The notification was submitted on October 8, 1987. EPA assigned Allied-Signal, Inc. the EPA Identification Number PAD981739758.
- L. On May 9, 1990, General Chemical Corporation submitted to EPA a Notification of Hazardous Waste Activity

("Notification") for the Delaware portion of the Facility, pursuant to Section 3010 of RCRA, 42 U.S.C. §6930. EPA assigned the Delaware portion of the Facility the EPA Identification Number DED154576698.

- M. As a result of a spill of sulfuric acid at the South Plant in 1989, General Chemical conducted groundwater monitoring at the Facility in September, 1989, with the installation of four (4) groundwater monitoring wells (B-1, B-2, B-3, and B-4). Three (3) additional groundwater monitoring wells (B-5, B-2D, and B-5D) were installed in January, 1990. Sampling events occurred on September 22, 1989, October 17, 1989, and January 31, 1990.
- N. Results from the September 22, 1989, October 17, 1989 and January 31, 1990 sampling events are documented in the February, 1990 CH2M Hill report prepared for General Chemical Corporation entitled, *Data Collection for the Sulfuric Acid Spill Area*. The analytical results indicate that several parameters exceed their respective maximum contaminant level ("MCL"), the maximum level of a contaminant allowed to be present in drinking water as set forth in the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq. Except for Chromium and Thallium, the highest concentrations of contaminants were detected in samples collected from monitoring well B-3. The highest level of Chromium and Thallium were detected in a sample collected from monitoring well B-2D. The contaminant, the highest concentration detected from the sampling events and the contaminant's associated MCL are presented below:

Parameter	Detected Conc. ($\mu\text{g/l}$)	MCL ($\mu\text{g/l}$)
Antimony	13,000	6.0
Arsenic	550,000	50.0
Cadmium	1,500	5.0
Chromium	2,610	100
Thallium	72,000	2.0

Note: All concentrations are expressed as micrograms/liter " $\mu\text{g/l}$ ".

- O. Investigation and remediation efforts in the sulfuric acid spill area were completed under the guidance of the Delaware Department of Natural Resources and Environmental Control ("DNREC"). Remediation and monitoring activities were terminated, with concurrence from DNREC, following the observation of floating liquid hydrocarbon within the recovery wells.

- P. On April 6, 1995, EPA and General Chemical entered into a Consent Agreement and Consent Order, pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. Section 6928(a) and (g), which required, inter alia, that General Chemical implement a pre-approved closure plan for the Facility's East and West Lagoons ("E&W Lagoons") and the Spent Acid Lagoon ("SAL").
- Q. On June 30, 1995, the State of Delaware, Chancery Court executed a Order (DNREC Legal No. 94-A-23) with DNREC and General Chemical Corporation regarding the closure of the General Chemical E&W Lagoons and SAL (hereafter, the "DNREC" Order).
- R. As required by the DNREC Order, General Chemical installed nine groundwater monitoring wells in the area of the E&W Lagoons and the SAL. The monitoring wells were installed in September, 1995 and were identified as (SAL-1, SAL-2, SAL-3, SAL-4, EWL-5, EWL-6, EWL-7, EWL-8, and EWL-9). Sampling events of the nine wells occurred on October 23-34, 1995, January 25-26, 1996, April 24-25, 1996, and July 24-25, 1996. Results are documented in the February 25, 1997, Environmental Resources Management, Inc. report prepared for General Chemical Corporation entitled, *Statistical Evaluation of Groundwater Monitoring Program*. A comprehensive analysis of the constituents found in 40 C.F.R. Part 264 Appendix IX Ground Water Monitoring List including pesticides, herbicides, PCBs and miscellaneous parameters was conducted on the samples. The analytical results for samples collected during the four sampling events indicated that several parameters exceeded their respective MCL. Examples of MCL exceedence are provided below:

Parameter	Location of Sample	Detected Conc. (µg/l)	MCL (µg/l)
Antimony	SAL-4	15,400	6.0
Arsenic	SAL-2	2,250	50.0
Beryllium	SAL-4	220	4.0
Cadmium	SAL-3	400	5.0
Chromium	SAL-4	14,100	100
Mercury	SAL-4	19	2.0
Benzene	EWL-7	310	5.0
Chlorobenzene	EWL-9	5600	100.0

Parameter	Location of Sample	Detected Conc. (µg/l)	MCL (µg/l)
Trichloroethene	EWL-5	20	5.0
1,2,4-Trichlorobenzene	EWL-7	440	70
1,4-Dichlorobenzene	EWL-7	1100	75
Pentachlorophenol	EWL-7	15	1.0
Lindane	EWL-7	214	0.2

Note: All concentrations are expressed as micrograms/liter " (µg/l) ".

- S. General Chemical conducted soil sampling in the area of the SAL on April 30, 1996. Results are documented in a June 25, 1996, Environmental Resources Management, Inc. letter prepared for General Chemical regarding the Closure of the SAL. The results of the soil sample analysis were compared to EPA Region III Risk Based Concentrations ("RBC") for Industrial Soils¹. A review of this data indicates that the arsenic concentration in soil samples collected from SAL-1, SAL-2, SAL-3 and SAL-4 exceed the RBC concentration for arsenic of 3.8 milligrams per kilogram ("mg/kg"). Concentrations detected in the soil samples ranged from 2.8 to 99.1 mg/kg.
- T. Certain human health and environmental impacts of substances referred to in Paragraphs N, R and S of this Order are described below as taken from "Chemical, Physical and Biological Properties of Compounds Present at Hazardous Waste Sites" (EPA, 1985), and "Agency for Toxic Substances and Disease Registry (ATSDR)" (U.S. Public Health Service, 1991). Specifically:

1. Antimony exists in a variety of chemical forms. In the environment, stibnite, (a gas at room temperature and quite soluble in water) is the most common naturally occurring form of antimony, although it is also found as the native metal, as antimonides of heavy metals and as antimony oxides. Antimony production has been associated with an increase in lung cancer in exposed workers. Female

¹EPA Region III Risk Based Concentration Table dated 4/13/2000.

workers exposed to antimony compounds had an increased incidence of gynecological disorders and spontaneous abortions. Antimony also causes cardiovascular changes in humans and may damage the myocardia. The MCL for this substance is 6.0 µg/l.

2. Arsenic is a metal that is present in the environment as a constituent of organic and inorganic compounds. Arsenic is a human carcinogen which causes skin tumors when it is ingested and lung tumors when it is inhaled. Arsenic compounds are teratogenic and have adverse reproductive effects in animals. It is acutely toxic to some early life stages of aquatic organisms at levels as low as 40 µg/l. The MCL for this substance is 50 µg/l.

3. Beryllium is a metal with a complicated coordination chemistry, and it can form complexes, oxycarboxylates, and chelates with a variety of materials. Inhalation exposure to beryllium causes lung and bone cancer in animals, and epidemiological studies suggest that it may cause lung cancer in humans. Chronic exposure to beryllium was reported to have adverse effects on aquatic organisms at levels as low as 5.3 µg/l. The MCL for this substance is 4.0 µg/l.

4. Cadmium is a metal that can be present in a variety of chemical forms in wastes or in the environment. Some forms are insoluble in water, but cadmium is relatively mobile in the aquatic environment. Cadmium is carcinogenic in animals exposed by inhalation and may be in humans. Cadmium is a known animal teratogen and reproductive toxin. The MCL for this substance is 5.0 µg/l.

5. Chromium is a heavy metal that generally exists in either a trivalent or hexavalent oxidation state. Hexavalent chromium, "Cr VI", is rather soluble and is quite mobile in groundwater and surface water. However, in the presence of reducing agents it is rapidly converted to trivalent chromium "Cr III", which is strongly adsorbed to soil compounds and consequently is much less mobile. A number of salts of Chromium VI are carcinogenic in rats. In addition, an increased incidence of lung cancer has been seen in workers occupationally exposed to chromium VI. Chromium VI also causes kidney damage in animals and humans. Chromium III is less toxic than chromium VI; its main effect is contact dermatitis in sensitive individuals. The MCL for this substance is 100.0 µg/l.

6. Both organic and inorganic forms of mercury are

reported to be teratogenic and embryotoxic in experimental animals. In humans, prenatal exposure to methylmercury has been associated with brain damage. Other major target organs for organic mercury compounds in humans are the central and peripheral nervous system and the kidney. In animals, toxic effects also occur in the liver, heart, gonads, pancreas, and gastrointestinal tract. Inorganic mercury is generally less acutely toxic than organic mercury compounds, but it does affect the central nervous system adversely. The MCL for inorganic mercury is 2.0 µg/l.

7. 1,2-Dichloroethene can irritate the skin and mucous membranes. Via the inhalation route, dizziness, nausea, and vomiting and CNS depression may occur (Sittig, 1985). The lungs, liver, and kidneys may be affected. The MCL for this substance is 5.0 µg/l.

8. Benzene is an important industrial solvent and chemical intermediate. It is rather volatile, and atmospheric photo-oxidation is probably an important fate process. Benzene is a known human carcinogen, causing leukemia in exposed individuals. It also adversely affects the hematopoietic system. Benzene has been shown to be fetotoxic and to cause embryoletality in experimental animals. Exposure to high concentrations of benzene in the air causes central nervous system depression and cardiovascular effects, and dermal exposure may cause dermatitis. The MCL for this substance is 5.0 µg/l.

9. Chlorobenzene is used as a solvent and as a raw material in chemical manufacturing. It is persistent in the environment and can be adsorbed to organic material in soil. Chlorobenzene may cause liver tumors in male mice. Animals exposed to chlorobenzene have exhibited liver and kidney damage. The MCL for this substance is 100.0 µg/l.

10. Trichloroethylene (TCE) induced hepatocellular carcinomas in mice and was mutagenic when tested using several microbial assay systems. Chronic inhalation exposure to high concentrations caused liver, kidney, and neural damage and dermatological reactions in animals. The MCL for this substance is 5.0 µg/l.

11. 1,4-Dichlorobenzene is probably persistent in the natural environment. In rats, chronic oral exposure to dichlorobenzene caused liver and kidney damage and changes in the hematopoietic system. In humans, DCB is a skin and eye irritant; inhalation exposure causes nausea and irritates the membranes.

The MCL for this substance is 75.0 µg/l.

12. Pentachlorophenol is probably persistent in natural environments. It is embryotoxic and fetotoxic. Chronic exposure has been shown to cause chloracne, headache, muscle weakness, weight loss, and liver and kidney damage. Technical grade pentachlorophenol is often contaminated with polychlorinated dibenzo-p-dioxins, and these contaminants may be responsible for some of the toxic effects associated with exposure to pentachlorophenol. Pentachlorophenol is highly toxic to aquatic organisms. The MCL for this substance is 1.0 µg/l.

13. Acute exposure to soluble thallium compounds has been associated in humans with gastrointestinal irritation; damage of the liver, kidneys, and central and peripheral nervous systems; pulmonary edema; degenerative changes in the adrenals; and ocular effects. The MCL for this substance is 2.0 µg/l.

- U. There are actual and potential human and environmental receptors located near the Facility. The Delaware River, which borders the southern boundary of the Facility, is used for fishing, boating, swimming and other recreational purposes and maintenance of resident fish and other aquatic life.

V. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

A. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15).

B. The Facility is a facility authorized to operate under Section 3005(e) of RCRA, 42 U.S.C. § 6925, within the meaning of Section 3008(h) of RCRA, 42 U.S.C. § 6928(h).

C. The substances referred to in Paragraphs N, R and S of Section IV of this Order include "hazardous wastes" within the meaning of Section 3008(h) of RCRA.

D. There is or has been a "release of hazardous waste into the environment from a facility" within the meaning of Section 3008(h) of RCRA, 42 U.S.C. Section 6928(h).

E. The actions required by this Order are necessary to protect human health or the environment.

VI. WORK TO BE PERFORMED

EPA acknowledges that Respondent may have completed some of the tasks required by this Order and that Respondent may have available some of the information and data required by this Order. This previous work may be used to meet the requirements of this Order, upon submission to and formal approval by EPA.

Pursuant to Section 3008(h) of RCRA, 42 U.S.C. Section 6928(h), Respondent is hereby ordered to perform the following acts in the manner and by the dates specified herein. All work undertaken pursuant to this Order shall be developed and performed in accordance with, at a minimum: the Scope of Work for Interim Measure(s) set forth in Attachment A; the Scope of Work for a RCRA Facility Investigation set forth in Attachment B; the Scope of Work for a Corrective Measures Study set forth in Attachment C; the Scope of Work for a Health and Safety Plan set forth in Attachment D; RCRA, its implementing regulations and relevant EPA guidance documents. All Scopes of Work and other Attachments to this Order are incorporated herein by reference. Relevant guidance may include, but is not limited to, the "RCRA Facility Investigation (RFI) Guidance" (Interim Final, May 1989, EPA 530/SW-89-031, Vol. I-IV, OSWER Directive 9502.00-6D Vol. 1-4); "RCRA Ground Water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1, September 1986); "RCRA Groundwater Monitoring: Draft Technical Guidance" (EPA/530/R-93/001, November 1992); "Test Methods For Evaluating Solid Waste" (SW-846, November 1986); "Construction Quality Assurance for Hazardous Waste Land Disposal Facilities" (EPA 530/SW-85-031, July 1986); "OWRS Guidance for Preparation of QA Project Plans" (OWRS QA-1, May 1984); Risk Assessment Guidance for Superfund Volume I, Human Health Evaluation Manual & Volume II, Environmental Evaluation Manual Interim Final" (EPA/540/1-89/022 and 001, March 1989); "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments" (EPA 540-R-97-006, June 1997); "DNAPL Site Evaluation" (Cohen, Robert M. and Mercer, James W., funded by U.S. EPA, 1993); and, "Land Use in the CERCLA Remedy Selection Process" (OSWER Directive No. 9355.7-04, May 1995).

"Days" as used herein shall mean calendar days unless otherwise specified.

A. INTERIM MEASURES ("IM")/STABILIZATION

1. Respondent shall submit a Description of Current Conditions Report to EPA in accordance with Section VI.B.7 of this Order ("WORK TO BE PERFORMED, RCRA Facility Investigation"). The Description of Current Conditions Report shall contain an assessment of all previously implemented

interim measures. The assessment must evaluate other interim measures alternatives that could be implemented at the Facility and identify any new data needed for making decisions on controlling exposures to contaminated media. EPA will review the Description of Current Conditions Report and other information available to EPA. EPA, if appropriate, will select (an) interim measure(s) and notify Respondent of the interim measure(s) selected. Within ten (10) calendar days of receipt of such notice from EPA, Respondent shall submit to EPA for approval an IM Workplan in accordance with the IM Scope of Work appended hereto as Attachment A for the interim measure(s) selected by EPA. Upon receipt of EPA approval, Respondent shall implement said IM Workplan in accordance with the terms and conditions set forth therein.

2. In the event Respondent identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous constituents, or discovers new solid waste management units not previously identified, Respondent shall notify the EPA Project Coordinator, orally within forty-eight (48) hours of discovery and notify EPA in writing within three (3) calendar days of such discovery summarizing the immediacy and magnitude of the potential threat(s) to human health and/or the environment. Respondent shall within fourteen (14) days of receipt of EPA's written request, submit to EPA an IM Workplan(s) in accordance with the IM Scope of Work, appended as Attachment A. If EPA determines that immediate action is required, the EPA Project Coordinator may orally authorize Respondent to act prior to EPA's receipt of the IM Workplan(s). Upon receipt of EPA's approval, Respondent shall implement said IM Workplan(s) in accordance with the terms and conditions set forth therein.

3. If EPA identifies an immediate or potential threat to human health and/or the environment, EPA will notify Respondent in writing. Within ten (10) days of receiving EPA's written notification that an IM Workplan(s) is necessary, Respondent shall submit to EPA an IM Workplan(s) in accordance with the IM Scope of Work appended hereto as Attachment A, that identifies interim measures which will mitigate the threat. Upon receipt of EPA approval, Respondent shall implement said IM Workplan(s) in accordance with the terms and conditions set forth therein.

4. All IM Workplans shall ensure that the interim measures are designed to mitigate immediate or potential threat(s) to human health and/or the environment, and should be consistent with the objectives of, and contribute to the performance of any long-term remedy which may be required at the Facility.

5. In accordance with Attachment A to this Order, each IM Workplan, if required by EPA, shall include the following sections: Interim Measures Objectives, Public Involvement

Plan, Data Collection Quality Assurance, Data Management, Design Plans and Specifications, Operation and Maintenance, Project Schedule, Interim Measures Construction Quality Assurance, and Reporting Requirements.

6. Concurrent with submission of an IM Workplan, Respondent shall submit to EPA an IM Health and Safety Plan in accordance with Attachment D of this Order.

B. RCRA FACILITY INVESTIGATION ("RFI")

7. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit to EPA for approval a Description of Current Conditions at the Facility ("Description"). This Description shall be developed in accordance with the RFI Scope of Work contained in Attachment B.

8. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit to EPA for approval a Workplan for a RCRA Facility Investigation ("RFI Workplan"). The RFI Workplan shall be developed in accordance with, at a minimum, the RFI Scope of Work contained in Attachment B, RCRA, its implementing regulations, and relevant EPA guidance documents.

9. The RFI Workplan shall be designed to determine the presence, magnitude, extent, direction, and rate of movement of any hazardous wastes and hazardous constituents within and beyond the Facility boundary. The RFI Workplan shall document the procedures Respondent shall use to conduct those investigations necessary to: (A) characterize the potential pathways of contaminant migration; (B) characterize the source(s) of contamination; (C) define the degree and extent of contamination; (D) identify actual or potential human and/or ecological receptors; and (E) support the development of alternatives from which corrective measure(s) may be selected by EPA. A specific schedule for expeditious implementation of all activities shall be included in the RFI Workplan.

10. In accordance with the provisions of Attachment B hereto, the RFI Workplan shall include: (A) a Project Management Plan; (B) a Data Collection Quality Assurance Plan; (C) a Data Management Plan; and (D) a Community Relations Plan and shall provide for the submission of a draft and final RFI report.

11. Concurrent with the submission of the RFI Workplan, Respondent shall submit an RFI Health and Safety Plan in accordance with the provisions of Attachment D of this Order.

12. Upon receipt of EPA approval of the RFI Workplan, Respondent shall implement the EPA-approved RFI Workplan in

accordance with the terms and schedules contained therein. Upon completion of implementation of the RFI Workplan, Respondent shall submit to EPA for approval draft and final RFI Reports and draft and final Laboratory and Bench Scale Studies Reports, if necessary, in accordance with the requirements and schedule contained in the EPA-approved RFI Workplan.

C. CORRECTIVE MEASURES STUDY ("CMS")

13. Within sixty (60) calendar days of receipt of EPA approval of the RFI Final Report, together with a written determination that a CMS is necessary, Respondent shall submit to EPA for approval a CMS Report in accordance with the CMS Scope of Work in Attachment C.

D. PUBLIC COMMENT AND PARTICIPATION

14. After approval of the CMS Final Report, EPA will make both the RFI Final Report and the CMS Final Report, a description of EPA's proposed corrective measure(s) and EPA's justification for proposing selection of such corrective measure(s) (the "Statement of Basis") available to the public for review and comment for at least thirty (30) calendar days.

15. Following the public review and comment period, EPA will notify Respondent of the corrective measure(s) selected by EPA in a Final Decision and Response to Comments ("FDRTC"). If the corrective measure(s) selected by EPA after consideration of public comments differs significantly from the corrective measure(s) recommended in the Statement of Basis, EPA will explain in the FDRTC the basis for such difference.

E. CORRECTIVE MEASURE(S) IMPLEMENTATION

16. After selection by EPA of the corrective measure(s) and issuance of the FDRTC, EPA may provide Respondent with an opportunity to negotiate the terms of an administrative order on consent for implementation of such corrective measure(s). Nothing in this Order shall limit EPA's authority to implement the selected corrective measure(s) or to take any other appropriate action under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq. ("CERCLA") or any other legal authority, including issuance of a unilateral administrative order or the filing of a civil action seeking a judicial order directing Respondent to implement the selected corrective measure(s).

F. SUBMISSIONS/EPA APPROVAL/ADDITIONAL WORK

17. EPA will review Respondent's IM and RFI Workplans, RFI and CMS Reports and any other documents submitted pursuant to Attachments A through C of this Order ("Submissions") with the exception of progress reports, and will notify Respondent in writing of EPA's approval or disapproval of each such Submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in, and or comments on the Submission. EPA may, in its discretion, direct Respondent to implement non-deficient portions of a Submission.

18. Within thirty (30) calendar days of receipt of EPA's comments on the Submission, or ten (10) calendar days in the case of an IM Workplan, Respondent shall submit to EPA for approval a revised Submission, which responds to any comments received and/or corrects any deficiencies identified by EPA. In the event EPA disapproves the revised Submission, EPA reserves the right to revise such Submission and seek to recover from Respondent the costs thereof, in accordance with CERCLA and any other applicable law. Any Submission approved or revised by EPA under this Order shall be deemed incorporated into and made an enforceable part of this Order.

19. Beginning with the tenth day of the second full month following the effective date of this Order, and every two months thereafter on the tenth day of the month, throughout the period that this Order is effective, Respondent shall provide EPA with bimonthly (every two months) progress reports. The bimonthly progress reports shall contain the information required in the relevant Scope(s) of Work attached hereto.

20. Four (4) copies of all Submissions required by this Order shall be hand-delivered or sent by Certified Mail, Return Receipt Requested, Federal Express or other generally accepted courier service, to the Project Coordinator designated pursuant to Section XII, "PROJECT COORDINATOR," below.

21. All work performed pursuant to this Order shall be under the direction and supervision of a professional engineer or geologist with expertise in hazardous waste site investigation. Within ten (10) calendar days after the effective date of this Order or retention of the engineer or geologist, whichever is later, Respondent shall submit to EPA, in writing, the name, title, and qualifications of the engineer or geologist and of any contractors or subcontractors to be used in carrying out the terms of this Order. Notwithstanding Respondent's selection of an engineer, geologist, contractor or subcontractor, nothing herein shall relieve Respondent of its obligation to comply with the terms and conditions of this Order. EPA shall have the right to disapprove at any time the use of any professional engineer, geologist, contractor or subcontractor selected by Respondent.

Within fifteen (15) calendar days of receipt from EPA of written notice disapproving the use of any professional engineer, geologist, contractor or subcontractor, Respondent shall notify EPA, in writing, of the name, title and qualifications of the personnel who will replace the personnel disapproved by EPA. Respondent shall notify EPA ten (10) days prior to changing voluntarily its engineer or geologist, and/or contractors or subcontractors to be used in carrying out the terms of this Order, and shall submit to EPA in writing, the name, title, and qualifications of such person(s).

22. EPA may determine that certain tasks and deliverables including, but not limited to, investigatory work or engineering evaluation require additional work. These tasks and deliverables may or may not have been in the IM or RFI Workplans. If EPA determines that such additional work is necessary to meet the purposes set forth in Section III ("Statement of Purpose"), EPA shall notify Respondent to perform the additional work and shall specify the reasons for EPA's determination that additional work is necessary. Within fifteen (15) calendar days after the receipt of such notification, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work EPA has requested. If additional work is required by EPA, Respondent shall submit to EPA for approval a workplan for additional work. Such workplan shall be submitted within thirty-five (35) days of receipt of EPA's determination that additional work is necessary, or according to an alternate schedule established by EPA. Upon approval of a workplan(s) for additional work, Respondent shall implement it in accordance with the schedule and requirements contained therein. In the event Respondent fails to perform the additional work, EPA reserves the right to take further enforcement action; to perform such additional work itself and to seek to recover from Respondent all costs of performing such additional work; and to disapprove of any IM Workplan, RFI Workplan and/or the RFI or CMS Reports.

VII. QUALITY ASSURANCE

A. Throughout all sample collection and analysis activities, Respondent shall use EPA-approved quality assurance, quality control, and chain-of-custody procedures, as specified in the EPA-approved Workplans. In addition, Respondent shall:

1. Ensure that laboratories used by Respondent for analyses perform such analyses according to the EPA methods included in "Test Methods for Evaluating Solid Waste" (SW-846, November 1986) or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent

shall submit all analytical protocols to be used for analyses to EPA for approval at least thirty (30) calendar days prior to the commencement of analyses and shall obtain EPA approval prior to the use of such analytical protocols.

2. Ensure that laboratories used by Respondent for analyses participate in a quality assurance/quality control program equivalent to that which is followed by EPA.

3. Inform the EPA Project Coordinator at least fourteen (14) calendar days in advance of any laboratory analysis regarding which laboratory will be used by Respondent and ensure that EPA personnel and EPA authorized representatives have reasonable access to the laboratories and personnel used for analysis.

VIII. PUBLIC REVIEW OF ADMINISTRATIVE RECORD

The Administrative Record supporting the issuance of this Order and any decisions or determinations made by EPA pursuant to the Order will be available for public review on Mondays through Fridays, from 9:00 a.m. to 5:00 p.m., by contacting the EPA Project Coordinator, Russell Fish, at:

U.S. Environmental Protection Agency
Region III, Mail Code 3WC23
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Telephone # 215-814-3226

The Index to the Administrative Record is set forth herein as Attachment H.

IX. ON-SITE AND OFF-SITE ACCESS

A. EPA and/or its authorized representatives shall have the authority to enter and freely move about all property at the Facility during the pendency of this Order for the purposes of, inter alia: interviewing Facility personnel and contractors; inspecting records, operating logs, and contracts related to the Facility; reviewing the progress of Respondent in carrying out the terms of this Order; conducting such tests, sampling or monitoring as EPA or its Project Coordinator deem necessary; using a camera, sound recording, or other documentary type equipment; and verifying the reports and data submitted to EPA by Respondent. Respondent shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Order.

B. To the extent that work required by this Order, or by any EPA-approved Workplan prepared pursuant hereto, must be done on property not owned or controlled by Respondent, Respondent shall use its best efforts to obtain site access agreement(s) from the present owner(s) and/or lessee(s) of such property, as appropriate, within thirty (30) calendar days of receipt of EPA approval of any Workplan pursuant to this Order which requires work on such property. For purposes of this paragraph, "best efforts" shall include, at a minimum, but shall not be limited to: a) a certified letter from Respondent to the present owner(s) or lessee(s) of such property requesting agreements to permit Respondent, EPA, and their authorized representatives access to such property; and b) the payment of reasonable sums of money in consideration of access. "Reasonable sums of money" means the fair market value of the right of access necessary to implement the requirements of this Order. In the event that such agreements for access are not obtained within thirty (30) calendar days after receipt of EPA approval of any Workplan pursuant to this Order which requires work on property which is not owned or controlled by Respondent, Respondent shall notify EPA, in writing, within seven (7) calendar days after the conclusion of such thirty-day period, regarding both the efforts undertaken to obtain access and the inability to obtain such agreements. In the event that Respondent fails to obtain off-site access, despite the exercise of best efforts, EPA, in its discretion, may assist Respondent in obtaining off-site access for Respondent. Respondent shall reimburse EPA for all costs incurred by EPA in obtaining access, including, but not limited to, attorneys fees and the amount of any just compensation and costs incurred by EPA.

C. Nothing in this Order limits or otherwise affects EPA's rights of access and entry pursuant to applicable law, including, but not limited to, RCRA and CERCLA.

X. SAMPLING AND DATA/DOCUMENT AVAILABILITY

A. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent in accordance with the requirements of this Order and the Attachments appended hereto and incorporated herein.

B. Respondent shall notify EPA, in writing, at least fourteen (14) calendar days in advance of any field activities, including but not limited to, well drilling, installation of equipment, and sampling. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives, to take split or duplicate samples of all samples collected by Respondent pursuant to this Order.

Nothing in this Order shall limit or otherwise affect EPA's authority to collect samples pursuant to applicable law, including, but not limited to, RCRA and CERCLA.

C. Respondent may assert a business confidentiality claim covering all or part of any information submitted to EPA pursuant to this Order in the manner described in 40 C.F.R. Section 2.203(b). Any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made in accordance with 40 C.F.R. Section 2.204(e)(4). Information subject to a confidentiality claim shall be disclosed only to the extent allowed by, and in accordance with, the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent. Respondent shall not assert any confidentiality claim with regard to any physical, sampling, monitoring, or analytical data.

D. If Respondent wishes to assert a privilege with regard to any document which EPA seeks to inspect or copy pursuant to this Order, Respondent shall identify the document, the privilege claimed, and the basis therefor in writing. For the purposes of this Order, privileged documents are those documents exempt from discovery from the United States in litigation under the Federal Rules of Civil Procedure. Respondent shall not assert a privilege with regard to analytical, sampling and monitoring data.

XI. RECORD PRESERVATION

Respondent shall preserve, during the pendency of this Order and for a minimum of at least six (6) years after its termination, all data, records and documents in its possession or in the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns which relate in any way to this Order or to hazardous waste management and/or disposal at the Facility. After six (6) years, Respondent shall make such records available to EPA for inspection or shall provide copies of such records to EPA. Respondent shall notify EPA at least thirty (30) calendar days prior to the proposed destruction of any such records, and shall provide EPA with a reasonable opportunity to inspect, copy and/or take possession of any such records. Respondent shall not destroy any record to which EPA has requested access for inspection and/or copying until EPA has obtained such access or withdrawn its request for such access. Nothing in this Section XI shall in any way limit the authority of EPA under Section 3007 of RCRA, 42 U.S.C. Section 6927, or any other access or information-gathering authority.

XII. PROJECT COORDINATORS

A. EPA hereby designates Russell Fish as the EPA Project Coordinator. Within ten (10) calendar days of the effective date of this Order, Respondent shall notify EPA, in writing, of the Project Coordinator it has selected. Respondent's legal counsel shall not serve as Respondent's Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of the Order. The EPA Project Coordinator will be EPA's primary designated representative at the Facility. To the maximum extent possible, all communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the Project Coordinators.

B. Respondent must provide at least seven (7) calendar days written notice to the other party prior to changing Project Coordinators.

C. If EPA determines that conditions or activities at the Facility, whether or not in compliance with this Order, have caused or may cause a release or threatened release of hazardous wastes, hazardous constituents, hazardous substances, pollutants or contaminants which threaten or may pose a threat to the public health or welfare or the environment, EPA may direct that Respondent stop further implementation of this Order for such period of time as may be needed to abate any such release or threatened release and/or to undertake any action which EPA determines is necessary to abate such release or threatened release.

D. The absence of the EPA Project Coordinator from the Facility shall not be cause for the delay or stoppage of work.

XIII. NOTIFICATION

A. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Order shall be in writing and shall be sent as follows:

1. Five copies of all documents to be submitted to the EPA shall be sent to:

Russell Fish
U.S. Environmental Protection Agency
Region III, Mail Code 3WC23
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Telephone # 215-814-3226

2. Documents to be submitted to Respondent shall be sent to:

Billie S. Flaherty, Esq.
Vice President of Environmental Health & Safety
General Chemical Corporation
90 East Halsy Road
Parsippany, NJ 07054-0389

3. One copy of all documents to be submitted to EPA shall also be sent to:

Karen J'Anthony, Program Manager I
Solid and Hazardous Waste Management Branch
Delaware Department of Natural Resources
and Environmental Control
P.O. Box 1401
Dover, Delaware 19903

and,

Ron Furlan
Waste Management Program Manager
Pennsylvania Department of Environmental Protection
Southeast Regional office
Suite 6010, Lee Park
555 North Lane
Conshohocken, PA 19428-2233

B. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Order shall be certified by a responsible corporate officer or a duly authorized representative of a responsible corporate officer. A "responsible corporate officer" means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. A person is a "duly authorized representative" only if: (1) the authorization is made in writing by a person described above; (2) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (3) the written authorization is submitted to the Project Coordinator designated by EPA in Section XII ("Project Coordinator") of this Order.

C. The certification required by paragraph B, above, shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete.

As to [the/those identified portion(s)] of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, or the immediate supervisor of such person(s), the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature : _____

Name : _____

Title : _____

XIV. PENALTIES FOR NONCOMPLIANCE

A. If Respondent fails to comply with the terms and provisions of this Order, EPA may commence a civil action to require compliance and to assess a civil penalty not to exceed \$27,500 per day of violation for each day of non-compliance pursuant to its authority under Section 3008(h)(2) of RCRA, 42 U.S.C. § 6982(h)(2).

XV. RESERVATION OF RIGHTS

A. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of work performed by Respondent pursuant to this Order, to require that Respondent correct and/or perform any work disapproved by EPA, and to request that Respondent perform tasks in addition to those stated in the Scope(s) of Work, Workplans, or this Order.

B. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's

failure to comply with any of the requirements of this Order, including, without limitation, the assessment of penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. Section 6928(h)(2). This Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, or any other statutory, regulatory or common law authority.

C. Compliance by Respondent with the terms of this Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.

D. Respondent's compliance with this Order shall not limit or otherwise preclude EPA from taking additional enforcement action pursuant to RCRA, including but not limited to Sections 3008(a) or (h) of RCRA, 42 U.S.C. §§ 6928(a) or (h), or any other authority, should EPA determine that such action is warranted.

E. This Order is not intended to be, nor shall it be construed as, a permit. This Order does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permit or approval.

F. EPA reserves the right to perform any portion of the work required herein or any additional site characterization, feasibility study, and response/corrective actions it deems necessary to protect public health or welfare or the environment. EPA may exercise its authority under RCRA, CERCLA or any other authority to undertake or require the performance of response actions at any time. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the United States in connection with any such response actions. Notwithstanding compliance with the terms of this Order, Respondent is not released from liability, if any, for the costs of any response actions taken by EPA.

G. EPA reserves whatever rights it may have under CERCLA or any other law, or in equity, to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Order.

XVI. OTHER CLAIMS

Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous

wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

XVII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Respondent shall obtain or require its authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

XVIII. NOTICE OF NON-LIABILITY OF EPA

EPA shall not be deemed a party to any contract involving Respondent and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Order.

XIX. SUBSEQUENT MODIFICATION

A. This Order may be amended in writing by EPA in accordance with the provisions of Section 3008(h) of RCRA and 40 C.F.R. Part 24.

B. Any reports, plans, specifications, schedules, other submissions and attachments required by this Order are, upon written approval by EPA, incorporated into this Order. Any noncompliance with such EPA-approved reports, plans, specifications, schedules, other submissions, and attachments shall be considered a violation of this Order and shall subject Respondent to the penalty provisions included in Section XIV, "PENALTIES FOR NONCOMPLIANCE."

C. Minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Order and necessary for the completion of the project may be made by the EPA Project Coordinator.

D. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval; if and when required by this Order.

XX. SEVERABILITY

If any provision or authority of this Order or the application of this Order to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Order shall not be affected thereby and shall remain in full force.

**XXI. EFFECTIVE DATE/NOTICE OF OPPORTUNITY
TO REQUEST A HEARING**

A. In accordance with Section 3008(b) of RCRA, 42 U.S.C. § 6928(b) and 40 C.F.R. Sections 24.02 and 24.05, this Initial Administrative Order shall become final and effective no later than thirty (30) calendar days after service unless Respondent files with the Regional Hearing Clerk a response and requests a public hearing in writing within thirty (30) calendar days after service of this Order. The response and request for hearing must be filed with:

Regional Hearing Clerk (3RC00)
Office of Regional Counsel
US EPA Region III
1650 Arch Street
Philadelphia, PA 19103
Attn: RCRA 3008(h)

B. All subsequent documents filed in this action must be sent to the Regional Hearing Clerk at the address specified above. The response must specify each factual or legal determination or relief provision in the Order that the Respondent disputes and shall specify the basis upon which it disputes such determination or provision. The response shall also include any proposals for modification of the Order. Any hearing on this Order will be conducted in accordance with the Rules Governing Issuance of and Administrative Hearings on Interim Status Corrective Action Orders, contained in 40 C.F.R. Part 24. A copy of these procedures are contained in Attachment F. Copies of the response and request for hearing and all subsequent documents filed in this action shall be sent to, Susan Hodges, Office of Regional Counsel at the following address:

Susan T. Hodges (3RC43)
Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

C. If Respondent fails to file a response and request for hearing within thirty (30) calendar days after service of this

Initial Administrative Order, Respondent will be deemed to have waived its right to a hearing and the Order will become a Final Administrative Order in accordance with 40 C.F.R. Section 24.05(a).

XXII. TERMINATION AND SATISFACTION

The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Order, including any additional tasks determined by EPA to be required pursuant to this Order, have been satisfactorily completed. This notice shall not, however, terminate Respondent's obligation to comply with any continuing obligations hereunder including, but not limited to, Sections XI ("RECORD PRESERVATION"), XVII ("RESERVATION OF RIGHTS"), XVIII ("OTHER CLAIMS"), XIX ("OTHER APPLICABLE LAWS"), and XX ("INDEMNIFICATION OF THE UNITED STATES Government").

XXIII. SURVIVABILITY/PERMIT INTEGRATION

A. Subsequent to the issuance of this Order, a RCRA permit may be issued to the Facility incorporating the requirements of this Order by reference into the permit.

B. No requirement of this Order shall terminate upon the issuance of a RCRA permit unless such requirement is expressly replaced by a requirement in the permit.

DATE: August 30, 2000

BY: Maria Parris Vickers for
 JAMES J. BURKE, DIRECTOR
 WASTE AND CHEMICALS
 MANAGEMENT DIVISION
 UNITED STATES ENVIRONMENTAL
 PROTECTION AGENCY, REGION III

I hereby certify that the
 within is a true and correct copy
 of the original Initial Admin Order
 filed in this matter.

Sam J. Th...
 Attorney for USEPA